

AN ACT

ENTITLED, An Act to revise the term, creditable coverage, with regard to health insurance policies and to clarify coverage for guarantee issue.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 58-17-69 be amended to read as follows:

58-17-69. For purposes of §§ 58-17-66 to 58-17-87, inclusive, the term, creditable coverage, means benefits or coverage provided under:

- (1) An employer-based health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan or an employee welfare benefit plan as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 as adopted by the director pursuant to chapter 1-26, to the extent that the plan provides directly or through insurance, reimbursement or otherwise to employees or their dependents medical care for the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body and amounts paid for the transportation primarily for and essential to medical care;
- (2) An individual health benefit plan, including coverage issued by any health maintenance organization or pre-paid hospital or medical services plan that provides benefits similar to or exceeding the benefits provided under the basic health benefit plan as approved pursuant to § 58-18B-32, but excluding limited benefit plans and dread disease plans;
- (3) Medicare or medicaid;
- (4) Chapter 55 of Title 10, United States Code;
- (5) A medical care program of the Indian Health Service or of a tribal organization;
- (6) A state health benefits risk pool;
- (7) A health plan offered under Chapter 89 of Title 5, United States Code;

- (8) A public health plan;
- (9) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e));
- (10) A church plan;
- (11) A college plan; or
- (12) A short term or limited duration plan.

Section 2. That § 58-17-85 be amended to read as follows:

58-17-85. If a person has an aggregate of at least twelve months of creditable coverage, the carrier shall accept such person for coverage under a health benefit plan, which contains benefits which are equal to or exceed the benefits contained in the basic plan that was approved pursuant to § 58-18B-32 and the maximum lifetime maximum benefit of the coverage is not less than one million dollars if the person applies within sixty-three days of the date of losing prior creditable coverage. In addition to the plan which equals or exceeds the basic coverage, the carrier shall also offer to the eligible person, the individual standard plan as approved by the director or a plan with benefits that exceed the standard plan. No carrier is required to issue further individual health benefit coverage under §§ 58-17-68 to 58-17-87, inclusive, if the individual health benefit plans issued to high-risk individuals constitute two percent or more of that carrier's earned premium on an annual basis from individual health benefit plans covered by §§ 58-17-66 to 58-17-87, inclusive. Each carrier who meets the two percent earned premium threshold shall report within thirty days to the director in a format prescribed by the director. If the director determines that all carriers in the individual market have met the two percent threshold, the threshold shall, upon order of the director, be expanded an additional two percent. The threshold shall be expanded in additional two percent increments if all carriers in the individual market meet the previous threshold. The director may promulgate rules pursuant to chapter 1-26 to determine which individual policies may be used to determine the two percent threshold, the procedures involved, and the applicable time frames. In making that determination, the director shall develop a method designed to limit the number of high-risk individuals to whom any

one carrier may be required to issue coverage. No carrier is required to provide coverage pursuant to this section if:

- (1) The applicant is eligible for continuation of coverage under an employer plan;
- (2) The applicant's creditable coverage is a conversion plan from an employer group plan;
- (3) The person is covered or eligible to be covered under creditable coverage or lost creditable coverage due to nonpayment of premiums; or
- (4) The person loses coverage under a short term or limited duration plan.

Any person who has exhausted continuation rights and who is eligible for conversion or other individual or association coverage has the option of obtaining coverage pursuant to this section or the conversion plan or other coverage. A person who is otherwise eligible for the issuance of coverage pursuant to this section may not be required to show proof that coverage was denied by another carrier.

An Act to revise the term, creditable coverage, with regard to health insurance policies and to clarify coverage for guarantee issue.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1050

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1050  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State